

REMARKS/ARGUMENTS

The Non Patent Literature (NPL) abstract for DE19632368 cited in the Information Disclosure Statement filed January 31, 2006 was not considered because the NPL abstract was not in English as noted. Applicants have accompanied this Amendment with the correct abstract, in English. Applicants respectfully request consideration of the correct abstract.

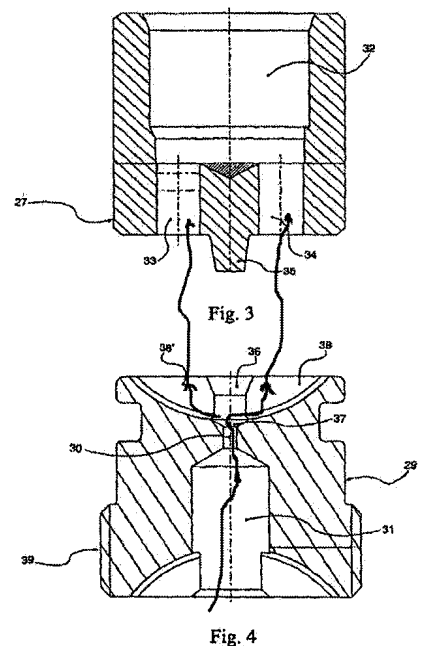
The drawings were objected to allegedly because the originally filed application was missing pages 2 and 4 of the drawings. But, as is clear from application publication 2006/0225797 of the present application, FIGS. 1 through 6 were evidently submitted on all five pages of drawing figures.

The drawings were also objected to for not showing a frusto-conical spring mating surface recited in claim 24. Although Applicants believe that FIG. 3 clearly supports such recited subject matter, the amendment to claim 24 renders the objection moot.

The drawings were further objected to because reference character “28” had been used to designate both a “ball (28)” and a “bore (28).” Applicants have amended the specification to replace all typographical errors of “bore (28)” with “ball (28)”.

The drawings were additionally objected to as not including reference sign 34’ as mentioned in the specification, and for including reference numeral 33 not mentioned in the specification. Applicants have amended the specification to replace typo 34’ with numeral 33.

The drawings were furthermore objected to because it was unclear to the Examiner how the conduit and the routes 38, 38’ communicate. First, Applicants assert the drawings, although not formal production engineering drawings, are more than sufficient to communicate to those of ordinary skill in the art how to make and use the claimed subject matter. Second, (as shown in the marked up Figs. 3-4 to the right) when the protrusion 35 of the sleeve 27 is inserted in the conduit 36 of the part 29 (with or without a ball valve member), fluid may flow through the inlet 30, between the seat 37 and its corresponding valve member, into the clearance spaces or routes 38, 38’, and into the channels 33, 34 of the sleeve 27. Third, Applicants have not claimed this specific relationship and any suitable valve and valve seat arrangement may be used.



The specification was objected to regarding the typos on page 6, lines 6 and 11, however the amendments to paragraphs 0037 and 0038 in the specification are believed to address the objection.

The claims were objected to because of a typo in claim 25 and because claims 26 and 27 were identical. Claim 25 was amended to correct the typo, and claim 27 was cancelled.

The amendments to the claims, specification, and drawings are believed to fully address the objections and, thus, reconsideration and withdrawal of same is requested.

Claims 15-34 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Applicants have amended independent claims 15 and 28 in a manner which is believed to correct the typo identified in the rejection. Withdrawal of the rejection is respectfully requested.

Claim 21 was also rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Applicants have amended independent claim 15 in a manner which is believed to correct a typo that may have prompted the rejection. Withdrawal of the rejection is respectfully requested.

Claims 15-23 and 28-34 were rejected under 35 U.S.C. 102(b) as being anticipated by Kruger et al (WO98/45594). Applicant notes that Kruger is in the German language except for an English language abstract. But according to the MPEP, “[c]itation of and reliance upon an abstract without citation of and reliance upon the underlying scientific document is generally inappropriate where both the abstract and the underlying document are prior art.” See MPEP §706.02(II) citing *Ex parte Jones*, 62 USPQ2d 1206, 1208 (Bd. Pat. App. & Inter. 2001) (unpublished). “The record must also be clear as to whether the examiner is relying upon the abstract or the full text document to support a rejection.” See MPEP §706.02(II). Further, pursuant to the MPEP:

“[i]n limited circumstances, it may be appropriate for the examiner to make a rejection in a non-final Office action based in whole or in part on the abstract only without relying on the full text document. In such circumstances, the full text document and a translation (if not in English) may be supplied in the next Office action.

Finally, because the full text may include teachings away from Applicants’ claims that will preclude an obviousness rejection, Applicants request a full translation of this reference in accordance with MPEP §706.02(II).

Applicants maintain that when a full translation of a cited reference is not supplied, the rejection relies only on the Abstract or portion provided in English.

Independent claims 15 and 28, as now amended, recite, *inter alia*, “a spool member, in a third valve configuration, directs the flow of a fluid from a valve inlet to a valve outlet when a bias force imposed by a biasing member is sufficient to prevent a flap device from opening after pressure within an inlet flap outer conduit has reached an operating pressure.” The abstract of Kruger does not disclose claims 15 or 28.

Further, claims 16-23 and 29-34 ultimately depend from independent claims 15 and 28 respectively and are patentable for at least the reasons stated regarding claims 15 and 28. Furthermore, amended dependent claim 22 recites, *inter alia*, an inlet flap inner conduit in fluid communication with a valve inlet within an inner bore of a valve body. The abstract of Kruger does not disclose claim 22.

Accordingly, reconsideration and withdrawal of the rejection of claims 15-23 and 28-34 under 35 U.S.C. § 102 is respectfully requested.

Claim 24 was rejected under 35 U.S.C. 103(a) as being unpatentable over Kruger in view of Hervault et al. (WO2004/007950 A2). First, claim 24 is ultimately dependent on independent claim 15 and, under principles of claim dependency, for at least the reasons discussed above with respect to the rejection of independent claim 15, the abstract of Kruger fails to disclose all of the elements of dependent claim 24.

Second, the combination of the Hervault reference does not cure the deficiencies of the Kruger reference. Applicants note that Hervault is in the French language except for an English language abstract. Because the full text may include teachings away from Applicants' claims that will preclude an obviousness rejection, Applicants request a full translation of this reference in accordance with MPEP §706.02(II). The abstract of Hervault does not disclose, teach, or suggest that a spool member, in a third valve configuration, directs the flow of a fluid from a valve inlet to a valve outlet when a bias force imposed by a biasing member is sufficient to prevent a flap device from opening after pressure within an inlet flap outer conduit has reached an operating pressure. Thus, dependent claim 24 should be allowed for at least the aforementioned reasons.

Third, dependent claim 24 should be allowed for the novel and nonobvious subject matter disclosed therein. Dependent claim 24 has been amended to recite, *inter alia*, a sleeve including

a cylindrical housing having a diameter that narrows inwards to fix an end of a biasing member thereto. The abstract of Kruger does not disclose element 51 as a sleeve. Element 51 appears to be a solid cylindrical shaft 51. In any event, the shaft 51 certainly does not include a cylindrical housing having a diameter that narrows inwards to fix an end of a biasing member thereto. Second, the addition of Hervault does not overcome the deficiency of Kruger with respect to dependent claim 24. As with Kruger, the element in Hervault relied upon by the Examiner to be a sleeve is not, in fact, a sleeve, but instead appears to be a solid cylindrical puck-like component 108. Withdrawal of the rejection is respectfully requested.

Claims 25-27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kruger in view of Good et al. (3,193,250). First, the rejection as to claim 27 is now moot in view of the cancellation thereof. Second, remaining claims 25-26 are ultimately dependent on independent claim 15 and are patentable for at least the reasons discussed above with respect to the rejection of independent claim 15, and because the abstract of Kruger does not disclose all of the elements of dependent claims 25-26.

Second, the combination of the Good reference does not cure the deficiencies of the Kruger reference. Although Good discloses a resilient valve seat design, Good does not disclose, teach, or suggest that a spool member, in a third valve configuration, directs the flow of a fluid from a valve inlet to a valve outlet when a bias force imposed by a biasing member is sufficient to prevent a flap device from opening after pressure within an inlet flap outer conduit has reached an operating pressure. Thus, dependent claims 25-26 should be allowed for at least the aforementioned reasons.

Third, dependent claims 25-26 should be allowed for the novel and nonobvious subject matter disclosed therein. For example, dependent claim 25 has been amended to recite, *inter alia*, that a portion of a flap device having a valve seat is axially adjustable. In contrast, Good discloses that a locking nut 32 is threaded to a valve body 12, and a valve seat member 36 is resiliently supported by spring washers 30 between the nut 32 and the seat member 36 to permit the seat member 36 to resiliently move upon impact by a valve 24. First, nothing in Good – and certainly not the citation to col. 2, lines 45-64 – discloses, teaches, or suggests that the nut 32 is axially adjustable. To the contrary, Good teaches that the nut 32 is a locking type of nut. Second, even if the nut 32 were axially adjustable, the nut 32 does not have a valve seat. Third, although the member 36 of Good is a valve seat member, it is not axially adjustable – rather it is

merely axially movable in response to a valve impact force. Withdrawal of the rejection is respectfully requested.

New independent claim 43 is directed to a flow and pressure control valve including a flow valve disposed in a bore of a valve body, a pressure valve disposed in the bore to control communication between a pressure valve inlet and a flow valve inlet, a biasing member interposed between the flow and pressure valves, and a pressure valve seat member coupled to the valve body in an axially adjustable manner to adjust a biasing force imposed by the biasing member. Such a configuration does not appear to be suggested by any of the references of record. Claims 44-45 are ultimately dependent on independent claim 43 and, under principles of claim dependency, define novel and patentable subject matter for at least the foregoing reasons and for the novel subject matter disclosed therein.

New independent claim 46 is directed to a flow and pressure control valve including a force exerting portion operable to force a flow valve to move and to increase a force applied to a pressure valve by a biasing member, but not operable to move the flow valve to such an extent that a flow valve inlet is communicated to a flow valve outlet until the force applied to the pressure valve by the biasing member is sufficient to keep the pressure valve closed when pressure at a pressure valve inlet has reached an operating pressure. Such a configuration and operation do not appear to be suggested by any of the references of record. Claims 47-50 are ultimately dependent on independent claim 46 and, under principles of claim dependency, define novel and patentable subject matter for at least the foregoing reasons and for the novel subject matter disclosed therein.


Applicants hereby petition to extend the time for filing a response to the Office Action dated April 2, 2008 for three months, the period to end on October 2, 2008. The extension fee for the three months accompanies this Amendment.

Applicants' counsel hereby authorizes the Examiner to charge Applicants' Deposit Account No. 50-0852 the fee for a three-month extension of time necessary to file this Amendment and any additional fee to this Amendment.

In view of the above amendments and remarks, Applicants respectfully request reconsideration and allowance of the claims now in the case.

Respectfully submitted,

Reising Ethington Barnes Kisselle PC
P.O. Box 4390
Troy, Michigan 48099-4390
Telephone: 248-689-3500
Facsimile: 248-689-4071
Email: brooks@reising.com
Dated: September 25, 2008
CWB/SBW

By 
CARY W. BROOKS
Registration No. 33,361